

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Communications and Control, Inc.	)	
Request for Extension of	)	File No. D026152
Special Temporary Authority and	)	
Modification of Authorization of	)	
220 MHz System WPCX448.	)	
	)	
	)	

**Order**

**Adopted: May 17, 2002**

**Released: May 20, 2002**

By Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. In this Order, we dismiss a Petition for Reconsideration filed by Communications and Control, Inc. (CCI) on November 19, 2001.<sup>1</sup> CCI seeks reconsideration of a Commission decision denying CCI's Application for Review with respect to the cancellation of its above-captioned 220 MHz license.<sup>2</sup> For the reasons discussed below, we dismiss CCI's Petition for Reconsideration as repetitious.

**II. BACKGROUND**

2. On August 11, 1993, the Commission granted CCI a license to operate a 220 MHz facility under call sign WPCX448. CCI's application identified the transmitter location as Mount Allison, Milpitas, California, but the coordinates listed on the application in fact identified a location west of Mount Allison in the Pacific Ocean. The Commission staff was unaware of the discrepancy and granted the license at the specified coordinates.<sup>3</sup>

3. On February 3, 1995, CCI informed the Commission of the discrepancy and sought to modify its license to reflect the Mount Allison coordinates, but the Bureau staff determined that these coordinates placed CCI's facility less than 120 kilometers – the required minimum separation – from a co-channel license, call sign WPCX449, previously awarded to ComTech Communications, Inc.

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<sup>1</sup> Petition for Reconsideration, filed November 19, 2001.

<sup>2</sup> See In the Matter of Communications and Control, Inc. Request for Extension of Special Temporary Authority and Modification of Authorization of 220 MHz System WPCX448, *Memorandum Opinion and Order*, 16 FCC Rcd. 19,155 (rel. Oct. 25, 2001) (2001 MO&O).

<sup>3</sup> Communications and Control, Inc., *Memorandum Opinion and Order*, 15 FCC Rcd. 5428, ¶ 3 (rel. March 17, 2000) (2000 MO&O).

(ComTech).<sup>4</sup> The Wireless Telecommunications Bureau (Bureau) therefore denied CCI's modification request and ordered CCI to submit its license for cancellation.<sup>5</sup> CCI filed an application for review of this decision.<sup>6</sup>

4. In the *2000 MO&O*, the Commission denied CCI's application for review and upheld the Bureau's decision with respect to CCI's license. First, the Commission found that CCI's initial license was void *ab initio* because it was granted as a result of administrative error and would not have been granted had the Commission staff been aware that it specified coordinates over the ocean.<sup>7</sup> Second, the Commission concluded that had the correct coordinates been provided in CCI's original application, the application would have been dismissed because it was mutually exclusive with ComTech's application and ComTech's application would have been entitled to grant based on higher filing priority.<sup>8</sup>

5. On April 14, 2000, CCI petitioned for reconsideration of the *2000 MO&O*, arguing that the Commission had failed in that order to consider the precedential effect of the *Ann Leggett* case, a February 4, 2000 decision by the Commercial Wireless Division (Division) in a case involving another 220 MHz licensee that had specified incorrect coordinates on an application.<sup>9</sup> The Division concluded that CCI had not presented any facts or circumstances not previously considered by the Commission in the *CCI Order*, and therefore dismissed CCI's petition as repetitious under section 1.106.<sup>10</sup>

6. CCI then filed an application for review of that decision, claiming that the Division incorrectly concluded that the *Anne Leggett* case did not present new facts or circumstances warranting review in its case.<sup>11</sup> The Commission denied the application for review as repetitious and affirmed the Division's findings.<sup>12</sup> In that the decision, the Commission distinguished the *Anne Leggett* case and found that the decision in *Anne Leggett* provided no precedential value in the matter.<sup>13</sup> CCI has now filed a petition for reconsideration of that decision.

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<sup>4</sup> *Id.*, ¶ 4.

<sup>5</sup> *Id.*

<sup>6</sup> Application for Review, filed August 12, 1996.

<sup>7</sup> *2000 MO&O*, ¶ 12.

<sup>8</sup> *Id.* ComTech, through its predecessor in interest Kitsap Cellular, had a higher filing priority than CCI because Kitsap Cellular was picked as the 319th application and CCI was picked as the 2777th application in the October 19, 1992 lottery. See "Commission Announces Tentative Selectees for 220-222 MHz Private Land Mobile "Local" Channels, Public Notice," DA 93-71 (January 26, 1993). See also "Update of Tentative Selectees Identified for 220-222 MHz Private Land Mobile "Local" Channels," Public Notice, DA 93-287 (March 12, 1993).

<sup>9</sup> Petition for Reconsideration, filed April 14, 2000. See In the Matter of Anne Leggett, Request for Modification of Phase I Non-Nationwide 220 MHz License Station WPCV789, New London, Connecticut, *Order*, 15 FCC Rcd. 2574 (WTB/CWD 2000) (*Ann Leggett*).

<sup>10</sup> Communications and Control, Inc., *Memorandum Opinion and Order*, 15 FCC Rcd. 14,969 (rel. August 11, 2000). See 47 CFR § 1.106(b)(3) (petition for reconsideration of order denying an application for review that fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious).

<sup>11</sup> Application for Review, filed August 28, 2000.

<sup>12</sup> *2001 MO&O*.

<sup>13</sup> *Id.*, ¶ 6.

### III. DISCUSSION

7. In its *2001 Order*, the Commission thoroughly addressed the issue of *Anne Leggett's* precedential value to CCI's arguments. In that discussion, the Commission concluded that the *Anne Leggett* case presented no new facts or circumstances that warrant further review in this matter. CCI's present petition for reconsideration relies on no new facts or circumstances, but repeats - once again - claims that have been repeatedly rejected. The Commission does not grant reconsideration for the purpose of allowing a petitioner to reiterate arguments already presented.<sup>14</sup> This is particularly true, where, as here, a petitioner advances arguments that the Commission previously considered and rejected in a prior order. It is settled Commission policy that petitions for reconsideration are not to be used for the mere reargument of points previously advanced and rejected.<sup>15</sup> We therefore dismiss CCI's current petition for reconsideration as repetitious pursuant to section 1.106(b)(3) of the Commission's rules.

8. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and sections 0.331 and 1.106 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.106, the Petition for Reconsideration filed by Communications and Control, Inc. on November 19, 2001 IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Katherine M. Harris  
Deputy Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau

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<sup>14</sup> See In the Matter of Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, *Third Order on Reconsideration of the Report and Order and Memorandum Opinion and Order*, FCC 02-130 (rel. May 8, 2002) (citing Policies Regarding Detrimental Effects of Proposed New Broadcasting Stations on Existing Stations, *Memorandum Opinion and Order*, 4 FCC Rcd. 2276 (1989)).

<sup>15</sup> See In the Matter of S&L Teen Hospital, *Order on Reconsideration*, FCC 02-126 (rel. April 23, 2002) (citing Mandeville Broadcasting Corp. and Infinity Broadcasting of Los Angeles, *Order*, 3 FCC Rcd. 1667 (1988)).